

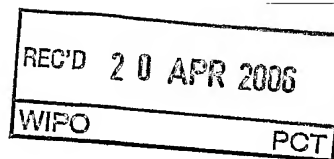
PATENT COOPERATION TREATY


PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference PWO051423		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/US2005/012205		International filing date (day/month/year) 08.04.2005		Priority date (day/month/year) 08.04.2004
International Patent Classification (IPC) or national classification and IPC INV. B65D1/24 B65D71/00 B65D5/46				
Applicant MEADWESTVACO PACKAGING SYSTEMS LLC et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input checked="" type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 08.02.2006		Date of completion of this report 18.04.2006		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer Jervelund, N Telephone No. +49 89 2399-2649		



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2005/012205

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-15 as originally filed

Claims, Numbers

1-16 as originally filed

Drawings, Sheets

1/27-27/27 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☒ the claims, Nos. 1-9 filed with letter dated 22.03.2006
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	1-16
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/US2005/012205

Re Item 1.

- 1 The amendments filed with the letter dated 22.03.2006 contravenes the requirements of Rule 70.2.c PCT.

The applicant has removed the following feature from claims 1, 2, 5, 6 and 7:

- each aperture having a frangible connection to at least one other aperture.

- 1.1 This feature was not explained as being inessential to the invention in the application as filed, on the contrary, this feature actually solves the technical problem posed in the application as filed, - see page 1 of the description.

Consequently, the removal of the above feature clearly violates Rule 70.2.c PCT.

2. The remaining claims 3, 8 and 9 more or less correspond to claims 7, 12 and 13 as originally filed.
3. Since the amendments made to the claims 1,2,5,6 and 7 contravenes the requirements of Rule 70.2.c PCT the present INTERNATIONAL PRELIMINARY EXAMINATION REPORT has been established on the basis of claims 1-16 as originally filed. That is to say, the opinion expressed with respect to claims 7,12 and 13 as originally filed applied equally to claims 3,8 and 9 as filed with letter dated 22.03.2006.

Re Item V.

- 1 Reference is made to the following documents:
D1 : FR 2 752 559 A (SMURFIT SOCAR) 27 February 1998 (1998-02-27)
- 2 Document D1, which is considered to represent the most relevant state of the art, discloses a carton, from which the subject matter of claim 1 differs in that each aperture has a frangible connection to at least one other aperture.

This frangible connection has the effect that the objects (bottles) in the carton can easily be removed from the carton while the top closure can be left in place, thus leaving the carton with sufficient integrity for replacement of articles for the purpose of returning them to a recycling point.

A carton according to claim 1 is neither disclosed in the available prior art, nor regarded as being obvious to the skilled person. Consequently the subject-matter of claim 1 meets the requirements of Articles 33(2) and 33(3) PCT.

- 2.1 Independent claim 2 relate to a top closure involving the inventive idea embodies in the independent claim 1, - Articles 33(2) and 33(3) PCT.
- 2.2 Dependent claims 3 to 6 concern modifications of the inventive idea embodied in claim 2, - Articles 33(2) and 33(3) PCT.
- 2.3 Dependent claims 7-11 (see Item VII below) concern modifications of the inventive idea embodied in claim 1, and thus they also meet the requirements of Articles 33(2) and 33(3) PCT.
- 2.2 Independent claim 12 relates to a two-part blank for forming a container according to claim 1 and, thus, also meet the requirements of the PCT with respect to novelty and inventive step.
- 2.3 Claims 13-16 (see Item VII below) concern modifications of the inventive idea embodied in claim 1, and thus they also meet the requirements of Articles 33(2) and 33(3) PCT. Independent claim

Re Item VII.

1. Claim 7 comprises all the features of claim 1 and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT). Likewise claim 13 comprises all the features of claim 12 and is therefore not appropriately formulated as a claim dependent on the latter (Rule 6.4 PCT).

**INTERNATIONAL PRELIMINARY
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Re Item VIII.

1. The application does not meet the requirements of Article 6 PCT, because independent claims 12, 13 and 16 are not clear.

In claims 12, 13 and 16 as at present on file only the structure of the carton has been defined. However, as the claims are drafted towards a two-part blank the structure of the two-part blank itself has to be defined, i.e. it should be clarified how the various panels of the blanks are arranged in relation to each other. The present wording of claim 12 and 13 merely defines the result to be achieved by folding/erecting the blanks and such a definition is not allowable, because it does not teach the skilled person how the "layout" of the blanks themselves has to be.